

REGULAR MEETING AND PUBLIC HEARING  
OF THE FALLS CHURCH PLANNING COMMISSION

1 May 2006  
Council Chamber

1. CALL TO ORDER: Immediately following a joint City Council/Planning Commission worksession to discuss a Special Exception application for 472 North Washington Street (Northgate), and a Rezoning application for 110 Great Falls Street, Chair Rodgers called the meeting to order at 8:43 PM.

2. ROLL CALL:

Members Present:	Ms. Budetti
	Ms. Fauber
	Mr. Holran
	Ms. Rodgers
	Ms. Sanders

Members Absent:	Mr. Burnett
	Mr. Puentes

Administrative Staff Present:	Ms. Friel, General Manager of Development Services/ Planning Director
-------------------------------	--

3. PLANNING COMMISSION REPORTS:

Mr. Holran said he would be unavailable for the 5 June meeting and inquired whether the 3 July meeting would be held, as the following day was a holiday. He noted that the next day, 2 May, was Election Day and encouraged everyone to vote.

4. RECEIPT OF PETITIONS: None.

5. PLANNING DIRECTOR'S REPORT/WORKSESSION SCHEDULE:

Ms. Friel reported that Council would consider a number of zoning issues at its 15 May meeting. She said it was anticipated that a joint City Council/Planning Commission would be held on 30 May to discuss Zoning Ordinance amendments. Ms. Friel stated that the Housing and Human Services staff and the Planning staff had met to discuss affordable housing. During the collaborations they had several issues, including lower minimum lot sizes and multifamily residential structures.

Ms. Friel provided information from the written monthly report. She advised that the 110 Great Falls rezoning application would come to the Commission in June, and that the Northgate project would be scheduled soon. Ms. Friel reported that the Preservation Partners Task Force had been working diligently to analyze historical regulations in a very thoughtful manner. She said that

the Zoning Ordinance review was a critical issue and that she was confident the work of the Commission's Zoning Ordinance Review Subcommittee (ZORS) would keep them moving forward. She said that the Urban Forestry section of the monthly report had not been updated because the City Arborist was in New Orleans volunteering to assess hazard trees. Ms. Friel advised that the City Arborist, Jill-Anne Spence, was one of only a few people selected to go to New Orleans for this project, which was a great honor.

Chair Rodgers asked if the lower minimum lot sizes included townhouses on smaller lots. Ms. Friel affirmed that it would be something other than the three-acre minimum required for townhouses and that there were a variety of strategies and different methodologies to negotiate Special Exceptions. The main focus is to review lot sizes in order to make residential districts a little more buildable.

Mr. Holran inquired whether the monthly report notation regarding the Broadway irrigation system being in compliance was accurate and whether there were any other outstanding issues. Ms. Friel replied that a recent issue was the signage limiting parking to 20 minutes for the patrons of the commercial uses. The City would remove the parking restriction signs next week if the property owner did not. Mr. Holran asked if the building had finally come into compliance with the exception of the parking signage. Ms. Friel expressed her belief that there were still other issues to be considered. She said there would be an internal meeting during the week to follow up.

Mr. Holran requested a quick update on the Mount Daniel School expansion. Ms. Friel said it was going very well; the new parking lot was completed, the new addition was completely framed, and it appeared that considerable internal work was finished. However, she did not have an official update.

Mr. Holran inquired what development the Columbia Baptist Church, 103 W. Columbia Street, was planning. Ms. Friel reported that a site plan amendment for a large parking lot had been submitted, but which did not meet Code requirements. Mr. Holran suggested that as the neighborhood surrounding the Church was a high development area the City could facilitate shared parking, as structured parking would benefit the Church, the East Falls Church Metro Station, and the surrounding area.

Mr. Holran thanked Mr. Young for restriping the Elevation Burger parking lot. He appreciated it, as the work was needed to avoid a serious accident in that area.

6. OLD BUSINESS:

**A. ORDINANCE T06-05, AN ORDINANCE TO AMEND CHAPTER 38, ZONING, OF THE CODE OF THE CITY OF FALLS CHURCH, VIRGINIA, BY REPEALING A PORTION OF SECTION 38-2, DEFINITIONS, "LOT, PIPESTEM" AND REPEALING SECTIONS 38-16(e)(1)(a), 38-16(2)(a), 38-16(3)(a), 38-17(e)(1)(a), and 38-17(3)(a)**

Ms. Friel suggested that the Planning Commission foreword a recommendation to Council regarding pipestem lots and advised that she had three options for the Commission's consideration. These options included requiring greater street frontage, larger lot sizes and/or a Special Use Permit for pipestem lots.

Ms. Friel stated that pipestem lots had been found to negatively impact neighborhoods. In the past, pipestem lots were not as predominant because there had been fewer developments and less land was utilized for such lots. She said that the City Council had chosen to give first reading to a more restrictive ordinance at its 27 March meeting. On 3 April, the Planning Commission held a worksession. Owners of property, which could be subdivided, were notified on 7 April of the Planning Commission's 17 April public hearing. Ms. Friel reported that the Housing Commission did not support the ordinance proposed, but that the Village Preservation Improvement Society and Board of Equalization did. She said public comments received were provided in the staff report.

Ms. Friel noted that requiring a greater street frontage was an option to help minimize stacking patterns. The Special Use Permit alternative (Option 3) was how certain residential uses, such as bed-and-breakfasts or home occupations, were handled typically. She said that staff had looked at Arlington County's special use process, which did not have set standards. Instead the County utilized a unified development process.

The Chair opened the item to the public.

1. John Freedenberg [606 E. Columbia St.] said that he first thought prohibiting pipestem lots was a good idea, but has changed his mind after further research. He and his wife desired to retain the option of creating a pipestem lot. Mr. Freedenberg said eliminating pipestems was not good idea and he advised that each case should be considered individually to determine which pipestems should be allowed.

2. Laura Bishop [309 Little Falls St.] said she had lived for almost 20 years on an acre lot, which included a pipestem. She said her home was called Tranquility, because it truly was for her and that all houses in Falls Church used to look like hers. Ms. Bishop reported that her taxes had increased every year, but that she had paid them because she loved the property. She was opposed strongly to an ordinance that dictated what she could do with her property.

3. Mary Madeline King [507 E. Columbia St.] said her pipestem property was on more than an acre of land and that its present configuration dated back to at least the 1930s. She said she had reviewed every property on the list of possible pipestem properties, excluding those owned by nonresidents. Ms. King stated that many of the largest lots in R-1A districts could not be subdivided because several were corner properties and several had land in adjacent jurisdictions. She said more research should be completed before any change concerning pipestem lots occurred. She noted that pipestem lots were assessed the same as a regular lot, regardless of whether the lot could be subdivided. Ms. King reported that the real estate market devalued pipestem lots, but the City assessed the lots in a manner similar to other residential lots. She did not want to lose the option of subdividing her land if she decided to sell it in the future and stated she believed the proposed ordinance to be unfair.

4. Hal Gann [401 E. Jefferson St.] said when he purchased his property in 1992 the appraisal was based on the subdivision potential of the land. He said he has paid taxes based on this potential for 13 years and would continue to do so. Mr. Gann expressed his belief that the City was attempting to prohibit the construction of larger homes, which consumed a majority of their lots, by amending the Zoning Code. He noted that a number of lots in the City that had the ability to subdivide and wondered why the City was focusing on a few pipstems when there were hundreds of other lots with the potential to subdivide. Disallowing pipestem lots would destroy an owner's investment in their property.

Mr. Gann said the Special Use Permit process would consider each individual lot. He suggested changing the coverage and setback rules for all properties or regulating the scale of new lots being developed went directly to the issue and treated everyone the same. Mr. Gann suggested that it was far better for the Planning Commission to recommend against the Council's proposal rather than to recommend alternatives that really didn't address the problem.

5. Shaun van Steyn [406 Lincoln Ave.] said a one-size-fits-all solution to pipestem lot development would not work and that there needed to be a balance struck between all or nothing on this issue. He suggested either limiting the size of the newly constructed houses or, because there were only a few subdividable lots left, taking them on a case-by-case approach. Mr. van Steyn did not agree that aesthetics outweighed a property owner's rights. He mentioned his elderly mother and how he wanted to build a home on his property so he could look after her, but the aesthetics outweighed this. Mr. van Steyn expressed his belief that alternatives should be discussed and asked whether his neighbors would be willing to shoulder the thousands of dollars a year tax burden he paid in order to preserve the aesthetic appeal of the lots. He said the problem must be better defined before a solution could be determined

Hearing no further response, and having received no further written comments, the Chair closed the item to the public.

Ms. Sanders said she had attended a series of worksessions on finding solutions to the problem of residential infill structure. She asked if staff was prepared to discuss if there were subdividable lots in R-1B districts, which could not be considered pipestems as a result of the ordinance's requirements. Ms. Friel said that staff was uncomfortable responding to the question as they were not land surveyors and did not have access to any data necessary. She said occasionally a lot appeared subdividable, but was not. There are lots in R-1B districts and a few lots in R-1A districts that had been configured in a rectangle or square, which had the potential to be pipestem lots. Ms. Friel advised that a lot, which was completely subdividable under the Code could instead become a pipestem lot. She reported that Option 3 had been generated by discussion and input from both the Planning Commissioners and from the public.

Ms. Sanders asked for more clarification regarding Arlington's approach to controlling pipestem development. She said she would support clear standards to apply to Special Use Permits rather than arbitrary or a case-by-case basis, with no thread of consistency on how any decisions were made. Ms. Friel reported that staff was unable to find any standards used in Arlington County; its staff had simply indicated its review process. In the City's case, there are standards for

pipestems in the subdivision regulations. Review of pipestem lots would go beyond typical subdivisions. She advised that she supported having a use permit review requirement, which would be similar to commercial properties and which would have enforcement provisions. The Special Use Permit process would include a greater public outreach at hearings with review on a case-by-case basis.

Ms. Sanders said criteria such as the building location or a modeling of the structure could be required, and that she was interested in hearing what legal counsel would advise. She wanted the Planning Commission to understand the issues related to residential infill. Ms. Sanders reported that she did not have a strong comfort level that everything had been considered fully and wanted to know there was some system in place to provide a sense of fairness in the process.

Ms. Friel noted that the public had indicated that there are residential development issues beyond pipestems. Staff is bringing several Zoning Code issues to the Council, which would come to the Planning Commission for its consideration in the near future. The pipestem issue was about configuration and coverage issues; the issue of house sizes was citywide. Ms. Sanders expressed her belief that the City should require a smaller structure all lots instead of requiring a larger lot size.

Mr. Holran expressed concern about Option 3. He said he was not a fan of pipestem lots, but supported property rights. Mr. Holran said that Council and staff discuss this issue annually and he was glad the public now had an opportunity to comment. He asked Ms. Friel how Option 3 would work and who would hold the Special Use Permit. Ms. Friel said the permit went with the land. The landowner would determine the criteria, but would need City consent to create a pipestem lot and all customary parties would review the subdivision plat. Mr. Holran stated that a Special Use Permit could be offered for parcels that met the defined criteria. If a new landowner preferred something different, then he would have to initiate a new application. Creating a Special Use Permit process would not restrict use of the land, but would ensure that there was public input through the process. The Zoning Code suggested, and the Commonwealth had agreed, that there needed to be some order in communities because what is done on one property affects neighboring properties. Currently, if a pipestem application is presented to the Planning Commission that met all criteria, then the Planning Commission had no ability to deny it even if the neighbors were nonsupportive of the application. He said a balance needed to be found, and he supported the idea of a Special Use Permit because it was not absolute and there would have to be a public discussion held prior to any approval.

Ms. Fauber said the Arlington County process was basically a neighborhood site plan process where all affected neighbors came and reviewed the plan; it is an open process. She expressed her support of the criteria suggested, such as providing a model that showed the proposed house in relationship to the surrounding houses. Ms. Fauber stated that everybody would never agree on the appropriate height or width of a house. Increasing street frontage could be included as a requirement of Option 3 for specific sites. She said that she was against pipestems originally, but after hearing the discussions and having been presented with information she had decided that a process was needed that allowed people willing to go through the process to get pipestems.

Ms. Budetti asked if a property owner could sell an undeveloped pipestem lot without knowing how it would be used. She was concerned about actual developments and what was being built on pipestem lots. Ms. Budetti wondered whether somebody could subdivide the land and then sell it, resulting in constraints for the new property owner. Ms. Friel said every creation of a new lot came before the Planning Commission at a public hearing. Any restrictions not recorded with the deed were noted on City land records. She said it was possible for someone to purchase a property and not be aware it had restrictions on it, however she believed that due diligence would reveal that information quickly. Ms. Budetti asked if there would be a two-step process when an owner wanted to sell their property. Ms. Friel replied the property typically could be subdivided, but she said the Planning Commission currently had some discretion and, if a property met the Code, they could approve pipestem lots on case-by-case basis. She said the Planning Commission would make a recommendation to the Board of Zoning Appeals (BZA) on the Special Use Permit, along with any conditions. The BZA typically adopted the conditions recommended and a property owner would be constrained by the conditions of approval.

Chair Rodgers asked if the Planning Commission decided to consider other conditions of approval with Option 3 whether the Commission would work on those conditions or would it need to go forward with recommendations to the City Council. Ms. Friel said the Planning Commission would have to further define the conditions. Ms. Rodgers asked if they could make a recommendation now with the notation they were going to look into other recommendations. Ms. Friel affirmed that they could and recommended that further advice to Council be provided before the Council met on 22 May.

Ms. Sanders expressed her belief that criteria needed to be attached to the ordinance. She suggested conducting research and seeking advice from legal counsel to make sure the case-by-case approach would be something that was straightforward and could be applied fairly in the process. She stated that the Zoning Administrator had a large amount of discretion in interpreting the Zoning Code and suggested that any Zoning Administrator interpretations be fully scrubbed and reviewed from a policy standpoint. Ms. Sanders said there is not currently a clear indication of when a Zoning Administrator's interpretation had been made or to what it referred. She advised that as the zoning rules changed it was important to build a written policy. This would make it easier to distinguish what needed to take place and to aid the Planning Commission as it moved forward, should the Commission have to make a departure from the policy.

Mr. Holran inquired whether the Commission could recommend that the ordinance, as written, not take effect until a time in the future. He said that residential property owners were just coming to an understanding that this issue had been under review for several years. The City Attorney's interpretation was that property owners were vested only after a subdivision approval, and not simply after an application had been filed. Mr. Holran thought that a delayed effective date would give property owners time to work within the current process. He said this deferral could be any amount of time so long as the property owners were given time to understand their options.

Ms. Budetti sought clarification on the conditions, which could be placed on the options in the staff report. Ms. Friel replied that those conditions offered had only been staff suggestions. Chair Rodgers said that the issue needed to be discussed further in worksessions.

MOTION: Ms. Sanders moved that the Planning Commission deny the passage of Ordinance T06-05 with the further recommendation to Council that a public process identified as Option 3 be researched more fully as an alternative.

Discussion:

Chair Rodgers suggested having two motions, one denying the passage of Ordinance T06-05 and one with any recommendations.

RESTATED MOTION:

Ms. Sanders moved, Ms. Fauber seconded, that the Planning Commission recommend to the City Council denial of Ordinance T06-05.

Upon roll call vote, the motion passed 4-1 (Mr. Holran voted 'no').

Mr. Holran explained that he had voted "no" because he wanted to make sure something was done to address the issue at some point in the future. According to *Robert's Rules of Order*, he had the ability to ask the Planning Commission to reconsider the issue back up with his opposing vote.

MOTION: Ms. Sanders moved, Ms. Fauber seconded, that the Planning Commission at its next regularly scheduled meeting consider recommendations to City Council concerning Option 3 in dealing with the pipestem issue.

Discussion:

Ms. Budetti advised that she would likely vote against the motion as was a bit too narrow. She suggested examining the Arlington County Special Use Permit process and considering other options.

SUBSTITUTE MOTION:

Mr. Holran moved, Ms. Budetti seconded, that the Planning Commission recommend to Council that further discussion be undertaken on the issue of pipestems. The Planning Commission shall undertake discussions in either worksessions or at its next regularly scheduled meeting to address a series of options, but not limited to the three options that were presented to the Planning Commission by staff. The Planning Commission will make further recommendations to the City Council regarding pipestems following its 15 May 2006 meeting.

Discussion:

Ms. Sanders noted that the Commission needed to reach a resolution. She indicated that she was comfortable with an alternative recommendation to Council to develop an option that provided a public input process for pipestem subdivisions. Ms. Sanders expressed her belief that the by-right nature of pipestems should be prohibited, and the review process should include the property owners, the adjacent property owners, and the City in future development patterns. She suggested offering that a public process include criteria, standards, and some procedural uniformity to get to an analysis of dealing with pipestems on a case-by-case basis.

Mr. Holran argued that his substitute motion addressed Ms. Sanders's comments and gave the Commission some latitude. He wanted to make sure that the Commission defined correctly its desired outcome. Ms. Sanders advised that there were fundamental differences between his motion and hers.

**Mr. Holran withdrew his motion. Ms. Sanders withdrew her motion.**

MOTION: Ms. Sanders moved, Ms. Fauber seconded, that the Planning Commission recommended to Council a public process similar to that outlined in the Staff report referred to as Option 3, with additional criteria and standards so as to ensure some sense at uniformity in the process of pipestem applications proceeding through the Special Use Permit Process.

Upon roll call vote, the motion passed 3-2 (Ms. Budetti and Ms. Rodgers voted 'no').

Mr. Holran said he wanted to be sure and articulate to the Council that the Planning Commission intended to continue exploring their options.

Ms. Rodgers informed the public that there would be a discussion of the three options at the Commission's next worksession, and that the Commission might include other options in its recommendation to the City Council. She noted that worksessions are open to the public and, though the public generally did not speak, it was an opportunity to hear the Commission's deliberations and to understand what might be considered at the public hearing.

7. NEW BUSINESS: None.

8. OTHER BUSINESS: None.

9. MINUTES FOR APPROVAL: The Minutes of April 17, 2006 were approved as presented.

10. ADJOURNMENT:

Ms. Sanders moved, and Ms. Fauber seconded, to adjourn. The motion passed by voice vote and the meeting adjourned at 10:15 PM. Immediately following the meeting, the Planning Commission met in a worksession to discuss a request for a Site Plan Amendment, 450 West Broad Street, to Permit Interim Parking for a Restaurant Use.



Respectfully Submitted,

Noted and Approved:

Amanda Willett  
Temporary Recording Secretary

Elizabeth R. Friel, AICP  
Planning Director

Draft Minutes edited by Debra Gee.

The City of Falls Church is committed to the letter and to the spirit of the Americans with Disabilities Act. This document will be made available in alternate format upon request. Call 703.248.5040 (TTY 711).